

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

INNOCENT MWESIGA,
Plaintiff,

v.

TEXAS SOUTHERN UNIVERSITY
COLLEGE OF PHARMACY AND
HEALTH SCIENCES, DR. BARBARA
E. HAYES, DEAN, and DR. SHIRLETTE
G. MILTON, ASSISTANT DEAN
STUDENT AFFAIRS,
Defendants.

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CASE NO. _____

NOTICE OF REMOVAL

NOW COME Defendants Texas Southern University College of Pharmacy and Health Sciences (“TSU”), Dr. Barbara E. Hayes, Dean, and Dr. Shirlette G. Milton, Assistant Dean of Student Affairs, and respectfully show that:

1. **Removal Provision:** This removal is pursuant to 28 U.S.C. §1441(a). In his Original Petition, Plaintiff alleges that he has been deprived of his “rights to due process” and that Defendants’ actions were “capricious, arbitrary, and or prejudiced.” (Orig. Pet. at pp. 3-4.) Plaintiff also alleges that Defendants’ actions “constituted a breach of contract.” (*Id.* at 3.) As confirmed by Plaintiff’s counsel, Plaintiff’s is asserting a due process claim under to the Fourteenth Amendment of the United States Constitution. (Exh. 1, Gibson Decl. ¶ 3.)

2. **State Action:** This action was filed in the 113th Judicial District Court of Harris County, Texas, on June 3, 2010, Cause No. 2010-34709. Plaintiff is Innocent Mwesiga, a former student in the pharmacy program at TSU. Venue is proper in the United States District Court for the Southern District of Texas, Houston Division.
3. **Nature of the Lawsuit:** Plaintiff alleges that he was dismissed from the TSU pharmacy program for academic reasons and that Defendants' actions in dismissing him violated his due process rights and constituted a breach of contract. Plaintiff seeks both declaratory and injunctive relief.
4. **Jury Demand:** Plaintiff has not requested a trial by jury in his Original Petition.
5. **Removal Requirements of 28 U.S.C. §1441:** Plaintiff's allegations regarding violation of his due process rights guaranteed by the Fourteenth Amendment raise federal questions.
7. **Compliance with Deadline:** Defendants received notice of the suit on or about June 4, 2010. On June 16, 2010, Plaintiff's counsel confirmed that Plaintiff is asserting claims under the United States Constitution. Defendants have 30 days in which to remove. Therefore, this removal is timely.
8. **State Court Pleadings:** A true and correct copy of all process and pleadings served upon Defendants in the state court action is being filed with this notice as required by 28 U.S.C. §1446(a).

ACCORDINGLY, Defendants pray that this cause be removed to the United States District Court Southern District of Texas, Houston Division, pursuant to Section 1441 of Title 28 of the United States Code.

Dated: July 1, 2010

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/s/ Darren G. Gibson
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent *via U.S. certified mail, return receipt requested*, on July 1, 2010, to:

Don R. Caggins, Sr.
2030 North Loop West
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Houston, Texas 77018
Attorney for Plaintiff

/s/ Darren G. Gibson
DARREN G. GIBSON
Assistant Attorney General